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EXAMINER
MOORE, IAN N

ART UNIT	PAPER NUMBER
2616	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	**Applicant(s)**
Office Action Summary	09/888,915	HUH ET AL.
	Examiner	**Art Unit**	
	Ian N. Moore	2616	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _26 June 2006_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-39_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _22-29_ is/are allowed.

6)☒ Claim(s) _1-21,30-39_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1,4,8,11,15,16, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by

Esteves (US006205129B1).

Regarding Claims 1 and 4, Esteves discloses an access terminal (AT) (see FIG. 3,

Mobile station 300) for transmitting data rate control (DRC) information (see col. 4, line 33-36;

DRC message) to an access network (AN) (see FIG. 4, Base station 400) transmitting packet data

for a first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2,

line 24-26; a first interval with plurality of time slots) according to a requested data rate in order

to request a data rate for packet data (see col. 4, line 45-55; a new requested data rate) to be

transmitted by the AN for a second transmission period after the first transmission period (see

col. 4, line 46-59; a next interval) in a mobile telecommunication system (see col. 3, line 54-

56,60-64; CDMA system), comprising:

        a receiver for receiving (see FIG. 3, Receiver 334,344,342,340,340; see col. 8, line 14-

43) a DRC request indicator (DRI) bit (see col. 4, line 36-42; receiving a balanced state bit, set

either 1 or 0) in at least one predetermined slot before a last slot of the first transmission period

(see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)); and

a transmitter (see FIG. Transmitter 332,336,338 and 348; see col. 8, line 14-43) for selectively transmitting the DRC information according to the DRI bit to the AN (see col. 4, line 40-50; mobile station transmits DRC message according to balanced state bit).

Regarding Claims 8 and 11, Esteves discloses an access network (AN) (see FIG. 4, Base station 400) for transmitting packet data at a requested data rate to an access terminal (AT) (see FIG. 3, Mobile station 300) and controlling transmission of DRC information (see col. 4, line 33-36; DRC message) from the AT that requests the data rate for the packet data (see col. 4, line 45-55; a requested data rate) in a mobile telecommunication system (see col. 3, line 54-56,60-64; CDMA system), comprising:

a controller (see FIG. 4, Cell-site control processor 478) for checking a last slot (see col. 4, line 37-45; monitors each time slot (which includes up to a last slot) for DRC message) of a first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2, line 24-26; a first interval with plurality of time slots) when the AN transmits the packet data to the AT for the first transmission period (see col. 4, line 30-40); and

a transmitter for transmitting (see FIG. 4, Transmit power amplifier, Transmit power control, transmit modulator 484 and diversity combiner and decoder 348) a DRC request indicator (DRI) bit (see col. 4, line 36-42; transmitting a balanced state bit, set either 1 or 0) to the AT in at least one predetermined slot before the last slot to request DRC information (see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward

activity channel)) to be used for a second transmission period after the first transmission period

to the AT (see col. 4, line 46-59; for next interval).

Regarding Claim 15, Esteves discloses a mobile telecommunication system (see col. 3,

line 54-56,60-64; CDMA system) comprising:

an access network (AN) (see FIG. 4, Base station 400) for transmitting packet data for a

first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2, line

24-26; a first interval with plurality of time slots) according to a requested data rate (see col. 4,

line 45-55; a new requested data rate) and transmitting a DRC request indicator (DRI) bit (see

FIG. 4, Transmit power amplifier, Transmit power control, transmit modulator 484); see col. 4,

line 36-42; transmitting a balanced state bit, set either 1 or 0) in at least one predetermined slot

before a last slot of the first transmission period (see col. 4, line 37-45; in a preamble/control

channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)); and

an access terminal (AT) (see FIG. 3, Mobile station 300) for selectively transmitting data

rate control (DRC) information to the AN (see FIG. Transmitter 332,336,338, 348; see col. 8,

line 14-43) according to the DRI bit to request a data rate for packet data (see col. 4, line 40-50;

mobile station transmits DRC message according to balanced state bit) to be received for a

second transmission period after the first transmission period (see col. 4, line 46-59; for next

interval).

Regarding Claim 16, Esteves discloses wherein the AT comprises the receiver (see FIG.

3, Receiver 334,344,342,340,340) for receiving the DRC bit from the AN (see col. 8, line 14-43)

and a transmitter (see FIG. Transmitter 332,336,338 and 348) for selectively outputting the DRC

information according to the DRl bit (see col. 8, line 14-43; col. 8, line 35-55).

Regarding Claim 18, Esteves discloses wherein the AN comprises a controller (see FIG.

4, cell-site control processor 478) for checking the last slot of the first transmission period when

the AN transmits the packet data to the AT for the first transmission period (see col. 4, line 37-

45; monitoring the last/final channel/slot from mobile unit), and a transmitter (see FIG. 4,

Transmit power amplifier, Transmit power control, transmit modulator 484) for transmitting the

DRI bit to the AT (col. 4, line 45-55).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section
> 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the
> subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

4.   Claim 7,14,17,19, 30,33,36, and 37 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Esteves in view of Proposed HDR Standard (hereinafter refers to as

"CDMA2000 HDR standard", 3GPP2-C00-20000327)).

Regarding Claim 30, Esteves discloses a method of transmitting data rate control (DRC)

information (see col. 4, line 33-36; DRC message) to an access network (AN) (see FIG. 4, Base

station 400) in a access terminal (AT) of a first group (see col. 4, line 1-21; see col. 2, line 5-15;

mobile stations in the first interval) in a mobile telecommunication system (see col. 3, line 54-

56,60-64; CDMA system) having the AN for transmitting packet data at a requested data rate for

a first transmission period having a plurality of slots (see col. 4, line 1-10, 40-50; see col. 2, line

24-26; a first interval with plurality of time slots), and a plurality of ATs divided into the first AT

group that includes at least one AT for receiving the packet data for the first transmission period

(see col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first interval) and a second AT

group that does not receive the packet data for the first transmission period and is to receive

packet data for a second transmission period after the first transmission period (see col. 4, line

46-59; mobile stations in the next interval), comprising:

determining (see FIG. 4, Cell-site control processor 478) a last slot of the first

transmission period (see col. 4, line 37-45; monitors and determine each time slot (which

includes up to a last slot)); and

generating (see FIG. 4, a combined system of Transmit power amplifier, Transmit power

control, transmit modulator 484, and diversity combiner and decoder 348) the DRC information

of the AT of the first group (see col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first

interval) in at least one predetermined slot before the last slot and transmitting the DRC

information to the AN (see FIG. 4, a combined system transmit DRC to base station 400), said at

least one predetermined slot located of the first transmission period (see col. 4, line 37-45; in a

preamble/control channel/slot is before the final/last of slot (i.e. FAC, forward activity channel)).

Esteves does not explicitly disclose after packet data. However, these limitations are well

known in the art of CDMA2000 HDR. In particular, CDMA2000 HDR standard teaches an

access terminal (AT) (see FIG. 1-1, AT) comprising determining a last slot of the first

transmission period (see page 8-8, paragraph 8.2.5.5.1.2; see page 8-30, paragraph 8.4.5.6.1.1);

transmitting the DRC information in at least one of predetermined slot before the last slot

to the AN (see page 8-30, paragraph 8.4.5.6.1.1 and Table 8-2), said at least one predetermined

slot located after the packet data of the first transmission period (see pages 20-23, paragraphs

9.2.1.3.2.2.2.1; FIG. 9-10; DRC slot is after packet data slot; also see page 8-29, paragraph

8.4.5.4; AN utilizes a first slot and repeated for next 15 slots in slot i+32, thus, it is clear that slot

1-15 before the last slot (i.e. slot 32)).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to provide after packet data, as taught by CDMA2000 HDR standard in

the system of Esteves, so that it would enhance to CDMA2000 family HDR which obtains very

high data transmission rates and very high capacity by using a separate carrier optimized for

packet data services; see CDMA2000 HDR standard, abstract and recommendation, cover page.

Regarding Claim 33, Esteves discloses an access terminal (AT) (see FIG. 3, Mobile

station 300) of a second group for transmitting data rate control (DRC) information (see col. 4,

line 33-36; DRC message) to an access network (AN) (see FIG. 4, Base station 400) in a mobile

telecommunication system (see col. 3, line 54-56,60-64; CDMA system) having the AN for

transmitting packet data at a requested data rate for a first transmission period having a plurality

of slots (see col. 4, line 1-10, 40-50; see col. 2, line 24-26; a first interval with plurality of time

slots), and a plurality of ATs divided into a first AT group that includes at least one AT for

receiving the packet data for the first transmission period (see col. 4, line 1-21; see col. 2, line 5-

15; mobile stations in the first interval) and a second AT group that does not receive the packet

data for the first transmission period and is to receive packet data for a second transmission

period after the first transmission period (see col. 4, line 46-59; mobile stations in the next

interval), comprising:

a preamble detector (see FIG. 3, Diversity combiner and decoder 348) for detecting a

preamble (see col. 3, line 54-56,60-64; CDMA system mobile units; col. 8, line 35-55; note that

unit 348 in each CDMA mobile unit detects received preambles, during combining and

decoding);

a controller (see FIG. 4, Cell-site control processor 478) for checking a last slot of the

first transmission period (see col. 4, line 37-45; monitors each time slot (which includes up to a

last slot)); and

a transmitter for selectively transmitting (see FIG. 4, Transmit power amplifier, Transmit

power control, transmit modulator 484, and Diversity combiner and decoder 348) the DRC

information of the AT of the first group (see col. 4, line 1-21; see col. 2, line 5-15; mobile

stations in the first interval) in a predetermined slot before the last slot to the AN under the

control of the controller (see col. 4, line 37-45; in a preamble/control channel/slot is before the

final/last of slot (i.e. FAC, forward activity channel)).

Esteves does not explicitly disclose a packet length detector for detecting the length of

the packet data. However, these limitations are well known in the art of CDMA2000 HDR. In

particular, CDMA2000 HDR standard teaches an access terminal (AT) (see FIG. 1-1, AT)

comprising preamble detector for detecting preambles (see FIG. 9-7; see page 9-14,9-15,

paragraph 9.2.1.3.1; page 9-20, paragraph 9.2.1.3.2.2.2.1; preambles are detected);

a packet length detector for detecting the length of the packet data transmitted to the first

group of ATs for the first transmission period from the preamble (see FIG. 9-7; see page 9-14,9-

15, paragraph 9.2.1.3.1; page 8-30, paragraph 8.4.5.6.1.1; AT detecting a first n-DRCLength

slots packet including preamble);

checking a last slot of the first transmission period (see page 8-8, paragraph 8.2.5.5.1.2;

see page 8-30, paragraph 8.4.5.6.1.1);

selectively transmitting the DRC information in a predetermined slot before the last slot

to the AN (see page 8-30, paragraph 8.4.5.6.1.1 and Table 8-2), said at least one predetermined

slot located after the packet data of the first transmission period (see pages 20-23, paragraphs

9.2.1.3.2.2.2.1; FIG. 9-10; DRC slot is after packet data slot; also see page 8-29, paragraph

8.4.5.4; AN utilizes a first slot and repeated for next 15 slots in slot i+32, thus, it is clear that slot

1-15 before the last slot (i.e. slot 32))).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to provide packet length detector, as taught by CDMA2000 HDR

standard in the system of Esteves, so that it would enhance to CDMA2000 family HDR which

obtains very high data transmission rates and very high capacity by using a separate carrier

optimized for packet data services; see CDMA2000 HDR standard, abstract and

recommendation, cover page.

Regarding Claim 37, Esteves discloses an access terminal (AT) (see FIG. 3, Mobile

station 300) in a mobile telecommunication system (see col. 3, line 54-56,60-64; CDMA

system), comprising:

a multiplier (see FIG. 3, Diversity combiner and decoder 348) for sequentially

multiplying a received preamble by a plurality of codes (see col. 3, line 54-56,60-64; CDMA

system mobile units) assigned to a plurality of ATs (see col. 8, line 35-55; note that each CDMA

mobile unit multiples/combines received preambles with codes, during decoding);

a detector (see FIG. 3, a combined system of control processor 346, transmit modulator

338) for detecting an AT receiving packet data from the multiplication result (see col. 8, line 35-

63);

a controller (see FIG. 4, Cell-site control processor 478) for determining the termination

period of packet data transmission based on the packet length (see col. 4, line 37-45; monitors

each time slot or length (which includes up to a last slot) in each message); and

a transmitter for selectively transmitting (see FIG. 4, Transmit power amplifier, Transmit

power control, transmit modulator 484) data rate control (DRC) information in a predetermined

period to an access network (AN) (see FIG. 4, Base station 400) before the termination period

(see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e. FAC,

forward activity channel)).

Esteves does not explicitly disclose orthogonal codes and a detector for detecting the

length of the packet data. However, these limitations are well known in the art of CDMA2000

HDR. In particular, CDMA2000 HDR standard teaches an access terminal (AT) (see FIG. 1-1,

AT) comprising multiplier (see FIG. 9-7) for sequentially multiplying a received preamble by a

plurality of predetermined orthogonal code assigned to the plurality of ATs (see page 9-14,9-15,

paragraph 9.2.1.3.1; page 9-20, paragraph 9.2.1.3.2.2.2.1; received preambles are

multiplied/covered with orthogonal Walsh codes);

a detector (see FIG. 9-7) for detecting an AT receiving packet data and the length of the

packet data from the multiplication result (see page 8-30, paragraph 8.4.5.6.1.1; AT detecting a

first n-DRCLength slots packet including preamble);

determining the termination period of packet transmission based upon packet length (see

page 8-8, paragraph 8.2.5.5.1.2; see page 8-30, paragraph 8.4.5.6.1.1);

selectively transmitting the DRC information in a predetermined period to an access

network (AN) (see FIG. 1-1, AN) before the termination period (see page 8-30, paragraph

8.4.5.6.1.1 and Table 8-2), said at least one predetermined slot located after the packet data of the

first transmission period (see pages 20-23, paragraphs 9.2.1.3.2.2.2.1; FIG. 9-10; DRC slot is

after packet data slot; also see page 8-29, paragraph 8.4.5.4; AN utilizes a first slot and repeated

for next 15 slots in slot i+32, thus, it is clear that slot 1-15 before the last slot (i.e. slot 32))).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to provide orthogonal codes and packet length detector, as taught by

CDMA2000 HDR standard in the system of Esteves, so that it would enhance to CDMA2000

family HDR which obtains very high data transmission rates and very high capacity by using a

separate carrier optimized for packet data services; see CDMA2000 HDR standard, abstract and

recommendation, cover page.

Regarding Claims 7,14,17,19, and 36, Esteves discloses the transmitter comprises a

selector (see FIG. 3, a combined system of Transmit power control and Transmit modulator 338)

for receiving the DRC information and selectively outputting the DRC information according to

the DRI bit (see col. 5, line 20-40; see col. 8, line 35-55), and a spreader (see FIG. 3, Diversity

combiner and decoder) for spreading the output of the selector with a predetermined code (see

col. 8, line 35-55; note that each CDMA mobile unit multiples/combines received preambles

with codes, during decoding).

Esteves does not explicitly disclose orthogonal codes. However, these limitations are well

known in the art of CDMA2000 HDR. In particular, CDMA2000 HDR standard teaches an

access terminal (AT) (see FIG. 1-1, AT) comprising a selector for receiving the DRC

information (see FIG. 9-7, Encoder for DRC) and selectively outputting the DRC information

(see page 9-14,9-15, paragraph 9.2.1.3.1) and a spreader (see FIG. 9-7, Walsh cover) for

spreading the output of the selector with a predetermined orthogonal code (see page 9-14,9-15,

paragraph 9.2.1.3.1; page 9-20, paragraph 9.2.1.3.2.2.2.1; received preambles are

multiplied/covered with orthogonal Walsh codes);

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to provide orthogonal codes, as taught by CDMA2000 HDR standard in

the system of Esteves, so that it would enhance to CDMA2000 family HDR which obtains very

high data transmission rates and very high capacity by using a separate carrier optimized for

packet data services; see CDMA2000 HDR standard, abstract and recommendation, cover page..

5.   Claims 2,5,9,12,20,31,34, and 38 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Wada (US 5,689,503).

Regarding Claims 2,5,9,12,20,31,34, and 38, Esteves does not explicitly disclose at

least two slots before the last slot.

However, Wada teaches wherein the predetermined slot is the second slot from the last

slot (see FIG. 5, base station transmission at a time slot that starts at t10 is the second slot from

the last slot that starts at time 12 (i.e. final portion of a frame); see col. 7, line 4-8). Therefore, it

would have been obvious to one having ordinary skill in the art at the time the invention was

made to provide a base station transmission at a second time slot before the last time slot, as

taught by Wada in the system of Esteves, so that it would allow other mobile to access in the

next frame, thereby, avoiding deterioration of efficiency of the radio channel due to the collision;

see Wado, see col. 55-66; see col. 7, line 6-9.

6.   Claims 3,6,10,13,21,32,35 and 39 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Esteves in view of Wado, and further in view of CDMA2000 HDR standard.

Regarding Claims 3,6,10,13,21,32,35 and 39, Esteves does not explicitly disclose the

first two slot from the last slot and the last slot.

However, Wada teaches wherein the predetermined slot is the first two slots from the last

slot (see FIG. 5, base station transmission at two time slots that starts at t9 and t10 from the last

slot that starts at time 12 (i.e. final portion of a frame); see col. 7, line 4-8). Therefore, it would

have been obvious to one having ordinary skill in the art at the time the invention was made to

provide a base station transmission at a second time slot before the last time slot, as taught by

Wada in the system of Esteves, so that it would allow other mobile to access in the next frame,

thereby, avoiding deterioration of efficiency of the radio channel due to the collision; see Wado,

see col. 55-66; see col. 7, line 6-9.

Neither Esteves nor Wado explicitly discloses the last slot. However, CDMA2000 HDR

standard teaches wherein the predetermined slot is the last slot (see page 8-29, paragraph 8.4.5.4;

see page 8-8, paragraph 832.5.5.1.2; see page8-10, paragraph 8.2.6.2; see page 8-31, paragraph

8.4.5.6.1.1; predetermined last slot/bit/channel). Therefore, it would have been obvious to one

having ordinary skill in the art at the time the invention was made to provide the last slot, as

taught by CDMA2000 HDR standard in the combined system of Esteves and Wado, so that it

would enhance to CDMA2000 family HDR which obtains very high data transmission rates and

very high capacity by using a separate carrier optimized for packet data services; see

CDMA2000 HDR standard, abstract and recommendation, cover page.

Allowable Subject Matter

7.   **Claims 22-29** are allowed.

Response to Arguments

8.   Applicant's arguments see page 12, with respect **to claims 22-29** have been fully considered and are persuasive. The rejections of claims 22-29 have been withdrawn.

9.   Applicant's arguments filed 6/26/2006, with respect to rejection of claims **1-21 and 30-39** have been fully considered but they are not persuasive.

Regarding claims 1,4,8,11,15, the applicant argued that, "...The DRI bit of claims of the present application is a bit used to request data rate control...**The DRI bit of present application indicates if the DRC message is required;** the balance state bit of Esteves indicates if the DRC information is being received... Indicating if information is received cannot be equated with indicating if information is needed... Clearly, the balanced state bit cannot anticipate the DRI bit..." in page 12, paragraph 6.

In response to applicant's argument, the examiner respectfully disagrees with the above argument. First, in accordance with the applicant's specification page 8, lines 16-23 discloses, *"The DRI bit indicates whether DRC information is needed for scheduling after a predetermined slot period... The DRI bit is set to 1 if the transmission of the forward packet is terminated in the predetermined slot and to 0 if the transmission of the current forward packet continues."*

Thus, it is clear that the applicant's DRI bit (which set 0 or 1) is used the access network

(i.e. base station) to determine and indicate the reliability of the links so that Data Rate Control

information can be sent accordingly.

Second, Esteves discloses as follows:

"**if the base station is able to reliably receive DRC messages from the mobile station
on the data rate control channel, the base station sends a balanced state bit (i.e., the bit is
set to 0 or 1) to the mobile station indicating that the base station is reliably receiving the
DRC messages....** For every time slot, the mobile station predicts a new maximum data rate
that the forward link can support during the next transmit interval and sends a quantized
representation of this predicted value back to the base station as part of a DRC message." (see
Esteves col. 4, line 33-55), and
"When the system is operating in the variable rate mode as described above, the mobile
station monitors the state of the balanced state bit periodically received from the base station. If
the base station is unable to reliably receive DRC messages on the data rate control channel, then
the base station will toggle the value of the next balanced state bit sent to the mobile station,
**thereby indicating to the mobile station that the system is in an unbalanced state such that
the reverse link is unable to support transmission of the data rate information to the base
station.**" (see Esteves col. 5, line 25-27)

Thus, it is clear that balance bit (which is set 0 or 1) is used by the base station to

determine and indicate the reliably of the links so that Data Rate Control information can be sent

in response to balance bit (i.e. DRI bit) as set forth in the claimed invention. In other words, the

balance bit (i.e. DRI bit) is a bit used to request data rate control by the base station to the mobile

station.

In view of the above, both applicant DRI bit and Esteves's balance bit have an identical

functionality as set forth above, regardless how these bits are named/called. Therefore, Esteves

anticipates the applicant claimed invention.

In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies (i.e., **if the DRC**

message is required) are not recited in the rejected claim(s). Although the claims are

interpreted in light of the specification, limitations from the specification are not read into the

claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, it is

irrelevant to compare or equate what is not being claimed.

Regarding claims 30,33 and 37, The applicant argued that, "...Esteves does not

determine (or check for) the last time slot. Esteves does not transmit the DRC information

between the packet data and the last slot of the first transmission period..." in page 12, paragraph

3.

In response to applicant's argument, the examiner respectfully disagrees with the

above argument. Esteves discloses determining **(see FIG. 4, Cell-site control processor 478)** a

last slot of the first transmission period **(see col. 4, line 37-45; monitors and determine each**

time slot (which includes up to a last slot)), and

transmitting **(see FIG. 4, Transmit power amplifier, Transmit power control,**

transmit modulator 484, and Diversity combiner and decoder 348) the DRC information of

the AT of the first group **(see col. 4, line 1-21; see col. 2, line 5-15; mobile stations in the first**

interval) in a predetermined slot before the last slot to the AN under the control of the controller

(see col. 4, line 37-45; in a preamble/control channel/slot is before the final/last of slot (i.e.

FAC, forward activity channel)).

Proposed HDR standard discloses selectively transmitting the DRC information in a

predetermined period to an access network (AN) **(see FIG. 1-1, AN) before the termination**

period (see page 8-30, paragraph 8.4.5.6.1.1 and Table 8-2), said at least one predetermined

slot located after the packet data of the first transmission period **(see pages 20-23, paragraphs**

9.2.1.3.2.2.2.1; FIG. 9-10; DRC slot is after packet data slot; also see page 8-29, paragraph

8.4.5.4; AN utilizes a first slot and repeated for next 15 slots in slot i+32, thus, it is clear

that slot 1-15 before the last slot (i.e. slot 32)))).

In response to applicant's arguments against the references individually, one cannot

show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re*

Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the rejection is based

on the combined system of Esteves and CDMA2000 HDR standard, thus it is clear that the

combined system of Esteves and CDMA2000 HDR standard discloses the claimed invention.

Regarding claims 30 and 33, in response to applicant's arguments, the recitation

"dividing into two groups...a second AT group that does not receive the packet data for the first

transmission period and is to receive packet data for a second transmission period" (see page

12, paragraph 1) has not been given patentable weight because the recitation occurs in the

preamble. A preamble is generally not accorded any patentable weight where it merely recites

the purpose of a process or the intended use of a structure, and where the body of the claim does

not depend on the preamble for completeness but, instead, the process steps or structural

limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976)

and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ian N. Moore whose telephone number is 571-272-3085. The

examiner can normally be reached on 9:00 AM- 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Doris To can be reached on 571-272-7629. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

INM
9/15/06

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